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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,992	08/04/2000	Joseph T. Roberts	JBP-512	2211

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EXAMINER

DI NOLA BARON, LILIANA

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 03/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/632,992

Applicant(s)

ROBERTS ET AL.

Examiner

Liliana Di Nola-Baron

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Receipt of Applicant's request for reconsideration, filed on February 1, 2002, is acknowledged.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over McAtee et al. in view of Venkitaraman et al.

The claimed inventions refer to an alcohol-free antibacterial wipe comprising a flexible fabric containing a latex binder and an aqueous antibacterial solution of a cationic antibacterial agent and a surfactant, and to a method of preparing said wipe.

McAtee et al. provides personal care articles comprising a water insoluble substrate and a cleansing composition comprising a surfactant (See e.g., col. 4, lines 36-65). McAtee et al. teaches that the substrate can be made of nonwoven materials and includes Chicopee® products containing rayon and a latex binder among the nonwoven substrates used in the invention (See e.g., col. 14, line 56 to col. 15, line 46). McAtee et al. lists disodium lauroamphoacetate among useful amphoteric surfactants (See e.g., col. 23, lines 9-29) and includes benzalkonium chloride among the antimicrobial agents used in the invention (See e.g., col. 46, line 25 to col. 47, line 25). McAtee et al. provides methods for manufacturing the article of the invention and teaches

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that the surfactant and any ingredient can be added onto or impregnated into the substrate (See e.g., col. 50, lines 15-64).

Thus, McAtee et al. provides an antibacterial wipe comprising a flexible fabric containing a latex binder and an aqueous antibacterial solution of a cationic antibacterial agent and a surfactant, and a method of preparing said wipe. McAtee et al. is deficient in the fact, that the articles of the invention are not alcohol-free, but include benzyl alcohol in the formulations of the invention.

Venkitaraman et al. discloses sheets impregnated with a stable oil-in-water emulsion composition and having antibacterial properties (See e.g., col. 2, lines 19-48). Venkitaraman et al. teaches that it is preferred that the emulsion composition be alcohol-free to eliminate drying effects and the emulsion, which comprises a surfactant, is impregnated onto one or both sides of an absorbent sheet formed from any woven or nonwoven fiber, including rayon (See e.g., col. 4, line 35 to col. 6, line 17).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the articles disclosed by McAtee et al., by producing articles, which are alcohol-free, to prevent skin dryness and render the article gentler to the skin. Because of the teachings of Venkitaraman et al., that antibacterial wipes containing a surfactant can be alcohol-free, one of ordinary skill in the art would have a reasonable expectation that the wipes and the method for manufacturing said wipes claimed in the instant application would be successful. Therefore the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

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Response to Arguments

3. Applicant's arguments filed on February 1, 2002 have been fully considered and found persuasive. Since the Towelettes by Johnson & Johnson cannot be considered prior art, the 35 U.S.C. 103(a) rejections of claims 1-8 over McAtee et al. in view of Johnson's Antibacterial Towelettes or Zighelboim in view of Johnson's Antibacterial Towelettes of the previous Office action are withdrawn.

Conclusion

Claims 1-8 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Liliana Di Nola-Baron whose telephone number is 703-308-8318. The examiner can normally be reached on Monday through Thursday, 5:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3592 for regular communications and 703-305-3592 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1234/ 1235.

March 18, 2002

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600